

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION
4 BARCO, INC., ET AL.,) ()
5 PLAINTIFFS,) (CIVIL ACTION NO.
6) (2:23-CV-521-JRG-RSP
7 VS.) (MARSHALL, TEXAS
8 YEALINK (USA) NETWORK) ()
9 TECHNOLOGY CO., LTD., ET AL.,) (NOVEMBER 15, 2024
10 DEFENDANTS.) (9:01 A.M.
11 MOTION HEARING
12 BEFORE THE HONORABLE ROY S. PAYNE
13 UNITED STATES MAGISTRATE JUDGE
14
15 FOR THE PLAINTIFFS: Mr. Erik J. Halverson
16 K&L Gates LLP
16 4 Embarcadero Center
17 Suite 1200
17 San Francisco, CA 94111
18
18 Mr. Tom Gorham
19 Gillam & Smith LLP
19 102 N. College
20 Suite 800
20 Tyler, TX 75702
21 FOR THE DEFENDANTS: Mr. Stephen Yang
22 Dentons US LLP
22 1221 Avenue of the Americas
23 New York, NY 10020
24
24 Mr. Forrest Gothia
25 Dentons US LLP
25 100 Crescent Court
25 Suite 900
25 Dallas, TX 75201

1 COURT REPORTER: Ms. Shelly Holmes, CSR, TCRR
2 Official Court Reporter
3 Honorable Robert W. Schroeder III
4 United States District Judge
5 Eastern District of Texas
6 Texarkana Division
7 500 North State Line Avenue
8 Texarkana, TX 75501
9 shelly_holmes@txed.uscourts.gov

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11 produced on a CAT system.)
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09:01:38 1 COURT SECURITY OFFICER: All rise.

09:01:42 2 THE COURT: Good morning. Please be seated.

09:01:55 3 For the record, we're here for the motion hearing

09:02:02 4 in Barco, Inc. versus Yealink Network Technology, et al.,

09:02:08 5 which is Case No. 2:23-521 on our docket.

09:02:12 6 Would counsel state their appearances for the

09:02:15 7 record?

09:02:15 8 MR. GORHAM: Good morning, Your Honor. Tom Gorham

09:02:18 9 on behalf of Barco. With me here today is Erik Halverson.

09:02:22 10 Barco's ready to proceed, Your Honor.

09:02:23 11 THE COURT: All right. Thank you, Mr. Gorham.

09:02:25 12 MR. GOTHIA: Good morning, Your Honor. Forrest

09:02:28 13 Gothia with Dentons US for the Yealink Defendants. With me

09:02:31 14 is my colleague, Stephen Yang, also of Dentons US. We are

09:02:35 15 ready to proceed.

09:02:36 16 THE COURT: All right. Thank you, Mr. Gothia.

09:02:37 17 We're here on the Plaintiffs' motion, so I'll turn

09:02:41 18 it over first to Plaintiff.

09:02:43 19 MR. HALVERSON: Good morning, Your Honor.

09:02:43 20 THE COURT: Good morning.

09:02:54 21 MR. HALVERSON: Barco filed its complaint almost a

09:02:56 22 year ago to the day, November 14th, 2023.

09:03:00 23 In its complaint, it alleges that certain Yealink

09:03:04 24 products infringe -- infringe at least Claim 1 of six

09:03:08 25 different U.S. patents. Yealink filed its first answer

09:03:12 1 approximately four months later, denying infringement of
09:03:16 2 all claims.

09:03:18 3 Yealink amended its answer, withdrawing all of
09:03:20 4 its counterclaims, in June -- on June 7th of this year,
09:03:25 5 and then filed a second amended answer on September 20th
09:03:28 6 of this year, admitting that it infringes Claim 1 but
09:03:32 7 denying that it infringes all other claims in the asserted
09:03:35 8 patents.

09:03:35 9 We're here today because Barco seeks basic
09:03:40 10 technical discovery into the development of the accused
09:03:44 11 products and the operation of the accused products.

09:03:46 12 Yealink has refused to provide that discovery.

09:03:48 13 The parties met and conferred in June and again in
09:03:53 14 August, and at each meet and confer, Yealink continues to
09:03:59 15 say documents are coming, information is coming, and at no
09:04:02 16 point in time has that information actually come.

09:04:04 17 THE COURT: Mr. Halverson, is it your reading of
09:04:10 18 the second amended answer that it does deny infringement of
09:04:17 19 other claims of the asserted patents or just that it only
09:04:23 20 admits infringement of the one specified claim?

09:04:28 21 MR. HALVERSON: There is a sentence at the end of
09:04:30 22 each paragraph in each count where Yealink says Yealink did
09:04:34 23 denies all other allegations. And in the complaint, the
09:04:37 24 paragraphs that are being denied expressly say Barco
09:04:40 25 accuses Yealink of infringing at least Claim 1 of the XXX

09:04:45 1 patent. And so my read of that answer is, Your Honor,
09:04:48 2 yes, they are denying infringement of all of the other
09:04:50 3 claims.

09:04:51 4 THE COURT: And your infringement contentions
09:04:54 5 specifically call out other claims of each of the asserted
09:05:00 6 patents as infringed?

09:05:00 7 MR. HALVERSON: That's correct, Your Honor, both
09:05:03 8 in the cover pleading, as well as the charts, there are
09:05:05 9 approximately a hundred or so claims that are expressly
09:05:08 10 accused of infringement in this case.

09:05:10 11 THE COURT: What is your response to the argument
09:05:16 12 that your damages would be the same regardless of how many
09:05:21 13 claims of a patent are infringed, and, therefore, it's not
09:05:28 14 relevant?

09:05:29 15 MR. HALVERSON: So there are some claims in the
09:05:31 16 case that involve multiple products. There are some system
09:05:34 17 claims that implicate both the dongle that is accused of
09:05:39 18 infringement, the thing that plugs into the laptop, as well
09:05:42 19 as a base station that sits at the front of the room during
09:05:44 20 the presentation. And so there are differences in the
09:05:48 21 scope of accused products across the different claims of
09:05:51 22 the different patents.

09:05:52 23 Now, I agree that damages -- you cannot collect
09:05:57 24 more damages for infringement of a dependent claim.
09:06:00 25 There's -- there's no doubt about that.

09:06:01 1 But I think what's perhaps missing from that
09:06:04 2 analysis is Barco has elected to challenge some claims in
09:06:10 3 an invalidity proceeding at the Patent Office, including
09:06:13 4 the claims it admits of infringement. But it does not
09:06:16 5 challenge all of the claims of the asserted patents.

09:06:19 6 THE COURT: So there -- what you're saying is that
09:06:22 7 all of the claims as to which it has expressly admitted
09:06:29 8 infringement in the second amended answer are being
09:06:32 9 challenged in the IPR?

09:06:35 10 MR. HALVERSON: That's correct, Your Honor.

09:06:37 11 THE COURT: All right.

09:06:37 12 MR. HALVERSON: And there are other claims that
09:06:40 13 are expressly identified in the infringement contentions as
09:06:45 14 infringed and in those charts that are not being accused of
09:06:48 15 infringement -- or, excuse me, that are not being
09:06:51 16 challenged in those IPR proceedings.

09:06:54 17 THE COURT: All right. And tell me, are there
09:06:59 18 other products that Yealink makes that you believe
09:07:05 19 infringe?

09:07:06 20 MR. HALVERSON: Beyond the ones that are
09:07:11 21 identified in the contentions?

09:07:12 22 THE COURT: Beyond the two that are admitted in
09:07:17 23 the second amended answer.

09:07:18 24 MR. HALVERSON: Yes, Your Honor, there are. There
09:07:20 25 are other products in the contentions that are not admitted

09:07:22 1 to infringe in Yealink's second amended answer.

09:07:26 2 THE COURT: All right. And you have discussed
09:07:29 3 with Defense counsel getting technical discovery as to
09:07:35 4 those products?

09:07:36 5 MR. HALVERSON: All of the products, yes, Your
09:07:40 6 Honor.

09:07:40 7 THE COURT: All right. I'm going to give the
09:07:45 8 Defendants a chance to address this general issue, but when
09:07:49 9 we get back to the motion itself, I'd like to approach it
09:07:57 10 as specifically as possible. In other words, I'm going to
09:08:03 11 want you to identify an interrogatory that you believe is
09:08:10 12 not properly responded to and take that up so that we can
09:08:16 13 do as specific a resolution of these issues as possible.

09:08:22 14 But I want to hear from the Defense on this
09:08:26 15 general issue before we get into the specifics of your
09:08:30 16 motion.

09:08:31 17 So thank you, Mr. Halverson.

09:08:32 18 MR. HALVERSON: Thank you, Your Honor.

09:08:33 19 MR. YANG: Good morning, Your Honor.

09:08:38 20 Your Honor, this case is now a damages case.
09:08:44 21 Defendants have been trying to streamline and simplify this
09:08:48 22 case by admitting infringement to all six of the asserted
09:08:53 23 patents. Not only have they admitted infringement, they
09:08:56 24 removed the infringement product from the U.S. market and
09:09:01 25 recalled everything.

09:09:02 1 THE COURT: Is it your intent to admit
09:09:06 2 infringement of all asserted claims?

09:09:10 3 MR. YANG: Your Honor, I want to address that real
09:09:12 4 quickly. First of all, we admitted what was in the
09:09:15 5 operative complaint, and that complaint only has Claim 1.

09:09:20 6 As for all the claims in the -- in the
09:09:23 7 contentions, I want to note a few things. First of all,
09:09:27 8 it's not necessary that Defendants admit to every single
09:09:33 9 one of those 109, I think, claims because they really have
09:09:36 10 no effect on damages. Damages do not change --

09:09:42 11 THE COURT: Well, I can tell you that you're not
09:09:44 12 going to get anywhere with admitting only infringement of
09:09:51 13 claims that you're contending are invalid and not admitting
09:09:57 14 infringement of claims to which you don't have an
09:10:02 15 invalidity defense. I do not accept that as mooting the
09:10:09 16 liability issue.

09:10:09 17 MR. YANG: I understand. In this case, however,
09:10:11 18 we actually do not have an invalidity defense based on
09:10:16 19 prior art -- based on 102/103.

09:10:19 20 Now, Barco mentioned the IPR proceeding. That is
09:10:22 21 a different proceeding before a different tribunal on a
09:10:26 22 different schedule.

09:10:27 23 In this case, we -- we are exploring potentially
09:10:30 24 some claim construction issues, but we actually do not
09:10:34 25 intend to present a full invalidity challenge.

09:10:37 1 THE COURT: I understand that. But it doesn't
09:10:39 2 matter to me which forum invalidity is being asserted in.
09:10:45 3 It's just that it shows that there is relevance to the
09:10:51 4 discovery in support of infringement of other claims.
09:10:56 5 Your argument that the discovery about technical
09:11:04 6 documentation of -- is irrelevant is belied by the fact
09:11:13 7 that if the claims that you have admitted infringement of
09:11:19 8 are invalidated, then that the question of infringement of
09:11:27 9 the other asserted claims becomes front and center.
09:11:31 10 MR. YANG: I understand that, Your Honor. And I
09:11:34 11 think in that case, we're looking at a speculation because
09:11:38 12 we do not know how the PTAB will rule.
09:11:40 13 And in this case, we have trial in September. We
09:11:44 14 will not know how the PTAB will rule. So if we want
09:11:48 15 clarity, and I absolutely see where the Court is coming
09:11:51 16 from, maybe the thing to do is we can stay the case until
09:11:55 17 there is resolution from the PTAB so we don't waste a lot
09:12:00 18 resources, a lot of time from the parties, from the Court,
09:12:04 19 and from the jury on this really full-blown international
09:12:08 20 discovery that may or may not be relevant, because come
09:12:12 21 September, Your Honor, we will be in front of this Court,
09:12:15 22 we will have a jury, and the jury instructions will be
09:12:19 23 you're here to hear evidence -- technical evidence on all
09:12:22 24 these dependent claims, but at the same time, Defendants
09:12:26 25 have admitted infringement to each of the asserted patents.

09:12:32 1 Your Honor, I'm not sure how that's going to work
09:12:34 2 out. And at that time in September, we will not have a
09:12:37 3 resolution from the PTAB.

09:12:40 4 THE COURT: You know, it -- I can tell you the way
09:12:42 5 it will work out. The Plaintiff will have to decide which
09:12:44 6 claims they want to present to the jury, and if they only
09:12:49 7 present claims as to which there is a -- an IPR pending,
09:12:59 8 then that's their decision.

09:13:01 9 But -- so what -- what is confusing about that?

09:13:03 10 MR. YANG: Because, Your Honor, we've already
09:13:06 11 admitted to infringement of each of the patents-in-suit.
09:13:08 12 So really, the only question left is --

09:13:11 13 THE COURT: You know, you don't infringe a patent.
09:13:13 14 You infringe a claim. You've admitted to infringement of
09:13:17 15 certain claims and denied infringement of other claims.

09:13:21 16 So if all the Plaintiff wants to proceed on is the
09:13:27 17 claims that you have admitted infringement of, I agree, the
09:13:31 18 jury is not going to be asked to determine that.

09:13:37 19 But why should the Court limit them to those
09:13:41 20 claims at this stage?

09:13:41 21 MR. YANG: So, Your Honor, I think procedurally, I
09:13:45 22 don't think we have denied that we infringe other claims.
09:13:49 23 We admit and deny what's in the complaint. If Plaintiffs
09:13:53 24 want to amend their complaint, and this something I have
09:13:56 25 brought up before, I think they can, then we have something

09:13:59 1 that we can admit or deny.

09:14:01 2 THE COURT: Their complaint accuses you of
09:14:05 3 infringing at least the designated claim.

09:14:06 4 What is your basis for asserting that those claims
09:14:14 5 are the only claims that they're entitled to go forward on?

09:14:18 6 MR. YANG: I'm not saying that's the only claim
09:14:22 7 they're entitled to go forward on. I think, Your Honor,
09:14:24 8 again, we're trying to streamline the case by taking
09:14:28 9 liability out of play.

09:14:29 10 THE COURT: My impression at this stage is that
09:14:32 11 you're trying to prevent discovery into the technical
09:14:37 12 aspects of your products because if you really want to take
09:14:42 13 the technical discovery off the board, then admit
09:14:49 14 infringement of all of the asserted claims, and then I
09:14:53 15 agree with you that that greatly reduces the technical
09:15:01 16 discovery that they'd be entitled to.

09:15:02 17 MR. YANG: Your Honor, if I may just have two more
09:15:05 18 points on that?

09:15:05 19 THE COURT: All right.

09:15:06 20 MR. YANG: All right. So, first of all, we do not
09:15:09 21 think it has legal effect on damages. But, second, we
09:15:13 22 don't know if that will really change everything because
09:15:17 23 Plaintiffs are also saying, well, we have willfulness in
09:15:20 24 the case, and because we have willfulness, we're also
09:15:22 25 entitled to the full discovery of all of our research and

09:15:26 1 development documents, of all of our technical documents.

09:15:29 2 We do not agree with that.

09:15:31 3 And the third point, Your Honor, Plaintiffs are
09:15:35 4 already using our admission in the case they filed in
09:15:38 5 Europe about two weeks after we admitted infringement here.

09:15:43 6 They filed a case in Brussels. In the complaint, they're
09:15:46 7 using our admission to further that case in mentioning that
09:15:50 8 Yealink has admitted to infringing U.S. patents.

09:15:55 9 THE COURT: What's wrong with that?

09:15:56 10 MR. YANG: Well, again, if we are to admit to all
09:15:58 11 claims, which, again, I don't think makes a difference on
09:16:01 12 damages, we're concerned because we don't know how that
09:16:03 13 will be used in the European proceeding.

09:16:07 14 THE COURT: I understand that. And I'm certainly
09:16:10 15 not saying that you have any obligation to admit
09:16:13 16 infringement at all. But if you want to prevent technical
09:16:17 17 discovery, then you have to really make it irrelevant. And
09:16:24 18 a partial admission or an admission of infringement of only
09:16:28 19 certain of the asserted claims doesn't get you there.

09:16:35 20 MR. YANG: So, Your Honor, we actually did not
09:16:37 21 challenge all of the asserted claims in the IP -- well, all
09:16:42 22 patents in the IPRs were challenged for.

09:16:44 23 So my question now is, okay, well, let's say
09:16:48 24 tomorrow somebody else challenges in the PTAB or elsewhere
09:16:51 25 the remaining two patents, are we going to be held liable

09:16:58 1 just because now Barco has the possibility of losing those
09:17:02 2 claims to invalidity?

09:17:03 3 The point, Your Honor, is we're here. We want to
09:17:06 4 move on. We want to give them the discovery they need for
09:17:09 5 damages for willfulness. And now what they're arguing, I
09:17:14 6 think, is there is this possibility that they may lose some
09:17:19 7 of the patents to invalidity in a different proceeding.

09:17:24 8 But in this case, Your Honor, we believe that does
09:17:27 9 not matter because we're here. This is now a damages case.
09:17:33 10 We're here because we have admitted infringement. We want
09:17:36 11 to move on --

09:17:36 12 THE COURT: Mr. Yang, you keep saying this is now
09:17:39 13 a damages case. You're not hearing me. This is not just a
09:17:43 14 damages case. That's done.

09:17:43 15 MR. YANG: Okay.

09:17:46 16 THE COURT: Until you get to the Federal Circuit,
09:17:49 17 that -- this is not just a damages case.

09:17:51 18 So go ahead.

09:17:53 19 MR. YANG: Well, I understand.

09:17:56 20 One thing I also -- one last thing I wanted to
09:18:00 21 note is Plaintiffs do agree that the only issue left really
09:18:02 22 is damages at this point.

09:18:04 23 THE COURT: Who agrees?

09:18:05 24 MR. YANG: The Plaintiffs agree. We have an email
09:18:08 25 from them, Your Honor, less than 48 hours ago where they

09:18:12 1 said -- they reiterate their belief that this case should
09:18:15 2 be resolvable without extended litigation.

09:18:18 3 They also say that given Yealink's admission of
09:18:21 4 infringement and withdrawal of the accused products from
09:18:25 5 the market, coupled with the closed universe of damages and
09:18:29 6 established license practice for the asserted patent family
09:18:32 7 suggests all that is left for the Court to decide is
09:18:38 8 damages.

09:18:38 9 So, Your Honor, I think there's agreement here
09:18:42 10 that there is a way to streamline this case. And, again,
09:18:45 11 there is no more infringement going on because the products
09:18:49 12 are out of the market.

09:18:50 13 THE COURT: If there is an agreement here, then
09:18:54 14 why am I hearing a dispute?

09:18:55 15 MR. YANG: Your Honor, I thought when they sent us
09:18:59 16 this email, they would agree, and, Your Honor, I must admit
09:19:03 17 I'm a little confused, too, as to why we're here on a
09:19:07 18 motion to compel. It seems that the parties agree at this
09:19:10 19 point, this is a simple case, and all that is left to
09:19:13 20 decide is damages.

09:19:14 21 THE COURT: All right. Do you have a copy of that
09:19:16 22 email?

09:19:16 23 MR. YANG: I do, Your Honor. If I may approach,
09:19:19 24 I'm happy to hand a copy of --

09:19:20 25 THE COURT: You may.

09:19:37 1 MR. YANG: Thank you.

09:20:20 2 THE COURT: Well, I have an impression of what
09:20:27 3 this email is about, but I'll let the Plaintiff respond
09:20:31 4 first before I substitute my own interpretation.

09:20:36 5 Mr. Yang, I'm going to interrupt you to have them
09:20:42 6 respond to this November 13 email.

09:20:45 7 MR. YANG: That's fine. Thank you, Your Honor.

09:20:46 8 THE COURT: Thank you, Mr. Yang.

09:20:49 9 MR. HALVERSON: Your Honor, this email is an
09:20:58 10 effort to elicit settlement discussions. Barco has
09:21:02 11 repeatedly tried to engage Yealink on settlement
09:21:05 12 discussions throughout the biggest portion of this case,
09:21:09 13 both before the complaint was filed and after the complaint
09:21:11 14 was filed. And at no point in time has Yealink engaged at
09:21:15 15 all. That is all this email is.

09:21:19 16 The motion that we're here to -- and I don't mean
09:21:22 17 to jump beyond the email. I know that I was afforded just
09:21:26 18 this opportunity.

09:21:28 19 Is there further questions here, or can I go on?

09:21:30 20 THE COURT: Mr. Halverson, that's my impression of
09:21:32 21 this email, as well, but I wanted to give you an
09:21:37 22 opportunity to interpret it before I did, but...

09:21:40 23 MR. HALVERSON: And perhaps I should have put 408
09:21:43 24 on it, but I think the content of the email is clear what
09:21:45 25 it is attempting to convey to the other side. And so for

09:21:49 1 that oversight, I apologize. But I don't know that this is
09:21:52 2 a proper use of this email or discussion for the Court.

09:22:00 3 THE COURT: All right. Thank you, Mr. Halverson.

09:22:02 4 Mr. Yang, I don't see anything in this email that
09:22:06 5 says that you have taken technical discovery off the table
09:22:17 6 in terms of an issue. This is, I would say, a request for
09:22:29 7 reopening settlement discussions.

09:22:30 8 MR. YANG: Okay. Your Honor, I -- you know, if
09:22:32 9 that is the request for settlement, I apologize. I
09:22:35 10 obviously do not intend to use that in court.

09:22:38 11 The reason I brought that up, Your Honor,
09:22:40 12 because -- is because the email does say that they believe
09:22:43 13 that all that is left for the Court to decide is damages.
09:22:46 14 And we absolutely agree with that.

09:22:48 15 THE COURT: They don't say that actually.

09:22:50 16 It says that it suggests all that is left for the
09:22:55 17 Court to decide is damages. And the -- I think that is an
09:23:10 18 optimistic view of where we are.

09:23:12 19 If you are really saying that all that is left is
09:23:16 20 damages, then you're admitting that all the accused
09:23:21 21 products are infringing.

09:23:24 22 MR. YANG: So, Your Honor, I think we have done
09:23:26 23 that. Earlier, the Court mentioned how many accused
09:23:31 24 products are here in the case.

09:23:33 25 Now, the way the six patents -- the claims are --

09:23:38 1 two of the patents are directed to this what we call a
09:23:41 2 dongle, a wireless presentation pod. And the other four
09:23:46 3 patents are related to a system where this pod -- this
09:23:49 4 presentation pod is a necessary component.

09:23:54 5 So Yealink has admitted infringement. They have
09:23:58 6 removed this presentation pod that is central to infringing
09:24:01 7 all six patents out of the market. And that's what we have
09:24:06 8 in the second amended answer. We admitted, because this
09:24:10 9 presentation pod was in the U.S., that it infringed all six
09:24:16 10 patents.

09:24:16 11 So, Your Honor, there we have admitted that the
09:24:19 12 accused products -- or the accused systems, when they were
09:24:23 13 in the U.S., they have admitted -- they have infringed the
09:24:26 14 patents.

09:24:29 15 THE COURT: It seems to me that the admission that
09:24:32 16 you're making is a very narrow admission that certain
09:24:37 17 products, when operated in certain ways, infringe certain
09:24:44 18 claims and that the -- I don't think the Plaintiffs are
09:24:52 19 required to narrow their case to the extent of the
09:24:56 20 admission that you've made in your second amended answer.
09:25:05 21 And so I am going to order that you respond with discovery
09:25:18 22 about the technical operation of the accused products and
09:25:23 23 about other products that operate in a similar fashion.
09:25:29 24 I haven't -- do you contend that there are no
09:25:32 25 other products that operate in a manner similarly to the

09:25:41 1 ones that -- the two products that are named in the
09:25:45 2 complaint?

09:25:47 3 MR. YANG: Well, Your Honor, I want to be a little
09:25:49 4 careful with that. I think I will have to go back and look
09:25:52 5 at the products a little more closely, but right now in the
09:25:55 6 contentions, those two are the main products. And, of
09:25:59 7 course, those two are the main products in the complaint.

09:26:01 8 THE COURT: Are those the only two products in the
09:26:04 9 contentions? Obviously, I don't have the infringement
09:26:07 10 contentions in the record. What I've got is the complaint.
09:26:11 11 But...

09:26:12 12 MR. YANG: Your Honor, we have -- I believe we
09:26:14 13 have copies of the contentions, but in the contentions,
09:26:18 14 everything was revolved around the presentation pod. But
09:26:22 15 they do name this video bar, this other product in the
09:26:24 16 complaint, and they do name, Your Honor, two other
09:26:28 17 products. But the contentions themselves, most of the
09:26:31 18 contentions are on information and belief, but there are
09:26:34 19 some contentions that does mention the other products.
09:26:41 20 Again, I don't want to unfairly characterize what
09:26:42 21 Plaintiffs have.

09:26:43 22 THE COURT: And have you conceded that the other
09:26:46 23 products that are named in the infringement contentions
09:26:52 24 also infringe the claims that you're conceding the two
09:26:57 25 products infringe?

09:26:58 1 MR. YANG: We have not done that through the
09:27:02 2 second amended complaint, but I think that is something we
09:27:04 3 can certainly look into. Again, these are system claims.
09:27:08 4 The system works when all the components are together.

09:27:12 5 So there are no claims directed to these other
09:27:17 6 products. So specifically, it's when they're all together
09:27:19 7 in a videoconferencing system when the components are
09:27:23 8 there, then there's infringement of the claims.

09:27:28 9 And, Your Honor, if I may just add real quickly, I
09:27:34 10 understand where Plaintiffs are coming from. I understand
09:27:35 11 where the Court is coming from. There are other claims.
09:27:41 12 We do want clarity, I think, Your Honor, for everybody. We
09:27:44 13 want to know what the scope of the case is. And given that
09:27:49 14 there are no damages, we don't know, again, how the PTAB is
09:27:52 15 going to rule, and will not know before trial.

09:27:56 16 Your Honor, may I suggest then the parties can
09:27:58 17 stay the case until there is clarity instead of spending a
09:28:01 18 lot of resources, a lot of money, a lot of time on this
09:28:05 19 full-blown international discovery when there's a chance
09:28:10 20 all of this could be irrelevant? There is no more
09:28:15 21 infringement going on at this point.

09:28:17 22 THE COURT: How do I know that?

09:28:18 23 MR. YANG: Because, again --

09:28:21 24 THE COURT: You identified two products that
09:28:24 25 you've withdrawn from the U.S. market.

09:28:27 1 MR. YANG: No, Your Honor. Sorry, let me clarify.

09:28:30 2 These are system claims. The claims are directed to the

09:28:38 3 system work, if and only if all components are working

09:28:42 4 together. If Yealink sells all components, there's

09:28:47 5 infringement. Yealink has taken a critical component, this

09:28:51 6 presentation pod, out of the case -- out of the U.S.

09:28:53 7 market. They have recalled all remaining inventory as of

09:28:58 8 six months ago. So there is no more system that infringes,

09:29:03 9 Your Honor, four of the six patents-in-suit. And the other

09:29:05 10 two patents-in-suit are directed to this pod itself, which,

09:29:09 11 again, is no longer in the U.S. market.

09:29:12 12 Again, in that email, Plaintiffs also mentioned

09:29:17 13 this is a close universe of damages. So there is no more,

09:29:23 14 at this point, infringement happening. The damages,

09:29:27 15 whatever they may be, are closed. They are frozen. And

09:29:32 16 they will not change no matter, again, how many claims we

09:29:37 17 come back and we address.

09:29:44 18 THE COURT: All right. Well, I will hear from the

09:29:47 19 Plaintiff on whether they agree with you that your

09:29:51 20 withdrawal of those two products from the market ends the

09:29:58 21 possibility of infringement.

09:30:00 22 MR. YANG: And, Your Honor, sorry, we withdrew one

09:30:03 23 product. I just wanted to be absolutely clear with the

09:30:05 24 Court. We withdrew one product. But, again, because that

09:30:09 25 one product is withdrawn, the system is no longer there.

09:30:11 1 THE COURT: All right. And which is the product
09:30:12 2 you withdrew?

09:30:13 3 MR. YANG: It's called a WPP20 and a WPP30
09:30:20 4 presentation pod. We actually have a copy of the Yealink
09:30:25 5 end of sale announcement if the Court would like to see,
09:30:29 6 but that is the dongle or the pod that is -- as counsel has
09:30:35 7 said, the piece that you plug into the computer. That is
09:30:40 8 out of the U.S. market, and that has been recalled. All
09:30:43 9 remaining inventory has been recalled.

09:30:46 10 THE COURT: All right.

09:30:47 11 MR. YANG: Thank you, Your Honor.

09:30:49 12 THE COURT: Thank you, Mr. Yang.

09:30:51 13 MR. HALVERSON: So some of the claims are system
09:30:58 14 claims. Some of the claims are product claims. Product
09:31:01 15 claims are directed towards this WPP20 and WPP30. Given
09:31:06 16 the representation that those two dongle products are no
09:31:11 17 longer offered for sale, the claims directed towards just
09:31:13 18 those products certainly cannot continue to be infringed in
09:31:16 19 the future by Yealink.

09:31:18 20 However, Yealink continues to sell the other
09:31:21 21 products that are identified in the infringement
09:31:22 22 contentions, the meeting bar, the presentation pod, and
09:31:29 23 there's -- there's another base station-type product I'm
09:31:32 24 forgetting the name of. But when Yealink sells those to
09:31:36 25 existing Yealink customers who have already purchased WPP20

09:31:40 1 and WPP30s, that's inducing those customers to create an
09:31:44 2 infringing system in the future.

09:31:46 3 So I don't know that I can agree that all Yealink
09:31:49 4 infringement has been foreclosed just because they've
09:31:52 5 withdrawn these couple of products from the market in the
09:31:54 6 U.S.

09:31:55 7 THE COURT: And what is the status of the IPR, and
09:32:02 8 is it a single IPR that we're talking about?

09:32:04 9 MR. HALVERSON: They filed four in September of
09:32:09 10 2024, 10 months after the complaint was filed.

09:32:13 11 THE COURT: So they have not been instituted?

09:32:14 12 MR. HALVERSON: They have not been instituted.
09:32:16 13 There have been no patent owner papers filed. They are
09:32:19 14 still in their infancy.

09:32:22 15 THE COURT: All right. Clearly, we're not going
09:32:26 16 to stay the case for IPRs that have not even been
09:32:33 17 instituted.

09:32:33 18 All right. What I'd like you to do now is to get
09:32:36 19 specific about the discovery that you contend has not been
09:32:47 20 provided.

09:32:57 21 MR. HALVERSON: So I can do it out of the motion,
09:32:59 22 Your Honor, or I also have hard copies of the discovery
09:33:03 23 requests and responses in their entirety. Do you have a
09:33:05 24 preference?

09:33:06 25 THE COURT: I guess if you have hard copies

09:33:09 1 available here, that would be helpful.

09:33:24 2 MR. HALVERSON: May I approach?

09:33:25 3 THE COURT: Yes.

09:33:25 4 MR. HALVERSON: So, Your Honor, what you've been
09:33:34 5 handed are Defendants' responses and objections to the 14
09:33:39 6 interrogatories that have been filed in this case.

09:33:42 7 And so in our motion, we specifically identify 1,
09:33:48 8 4, 7, 8, 11, 12, and 13. And I think while we contend that
09:33:56 9 discovery into all of the interrogatories is proper, there
09:34:00 10 are obviously objections lodged and -- at its core, what
09:34:05 11 we're really getting at is what is in Interrogatory No. 8,
09:34:11 12 which is: Describe in detail the research, design, and
09:34:15 13 development process undertaken by Yealink to develop each
09:34:20 14 accused product, including the dates over which that
09:34:23 15 happened and the source of information that was relied upon
09:34:26 16 in responding to this interrogatory.

09:34:28 17 Now, as part of that, all of the documents that
09:34:32 18 Yealink would look at to prepare that interrogatory should
09:34:35 19 be produced.

09:34:37 20 In the DCO in this case, Yealink agreed that it
09:34:41 21 would produce all relevant documents. It has not done so.
09:34:46 22 And so we have a dichotomy between -- or not dichotomy, a
09:34:51 23 parallel between the interrogatories which warrant a
09:34:55 24 written response, as well as the document production that
09:34:58 25 is lacking in this case.

09:35:00 1 THE COURT: Now, a part of their response is that
09:35:06 2 the accused products were already on the market at the time
09:35:10 3 the asserted patents issued, and, therefore, the design and
09:35:18 4 development process is not relevant.

09:35:22 5 What is your response to that?

09:35:24 6 MR. HALVERSON: So to the extent the design and
09:35:27 7 development process, the documents that Yealink created in
09:35:31 8 that process say this is Barco's product, we must copy
09:35:36 9 Barco's product, or anything remotely related to that, that
09:35:40 10 is highly relevant to the willful infringement allegations
09:35:43 11 that are at issue in this case.

09:35:44 12 THE COURT: Of course, if that is what you're
09:35:49 13 after, then that is what you should request, not all
09:35:54 14 documents because there might be some subset of relevant
09:35:56 15 documents.

09:35:57 16 MR. HALVERSON: So in addition to the bases tied
09:36:02 17 to willful infringement, the changes that were made to the
09:36:06 18 product as the product was developed is relevant to the
09:36:08 19 actual infringement analysis as well as the damages
09:36:11 20 analysis.

09:36:11 21 To the extent Yealink tried to develop a product
09:36:15 22 that designed around Barco's product -- or, excuse me,
09:36:19 23 Barco's patent portfolio and was unable to do that, that's
09:36:22 24 relevant to this case.

09:36:24 25 THE COURT: And if the patents had not issued yet,

09:36:27 1 how could they be trying to design around them?

09:36:32 2 MR. HALVERSON: I'm not sure, Your Honor. I think
09:36:33 3 that is part of what we would need to see in discovery.
09:36:36 4 While what comes out of discovery may not be admissible,
09:36:39 5 may not actually prove something that's at issue in this
09:36:42 6 case, it is all relevant to the issues that are at issue in
09:36:45 7 this case.

09:36:45 8 Now, we certainly don't need all documents by any
09:36:48 9 stretch of the imagination. To the extent there are
09:36:50 10 duplicative documents or, you know, different iterations
09:36:54 11 that don't evolve on each other of the same document, we're
09:36:58 12 not looking for a data dump of terabytes of data.

09:37:02 13 However, thus far, we've gotten absolutely
09:37:04 14 nothing. And because of that, we're not really sure how
09:37:06 15 else to tailor these requests beyond asking for these
09:37:10 16 development documents.

09:37:13 17 THE COURT: Uh-huh. What is your understanding or
09:37:18 18 belief as to when the accused products were first marketed
09:37:26 19 by Yealink?

09:37:27 20 MR. HALVERSON: So the WPP30 is a recent release.
09:37:34 21 I don't have the date off the top of my head.

09:37:37 22 THE COURT: So you think it's after the issuance
09:37:39 23 of your patents?

09:37:40 24 MR. HALVERSON: I don't want to speculate. I
09:37:42 25 don't know. But I do know that it was a more recent

09:37:44 1 release than the WPP20, which I am more confident was
09:37:50 2 before the product -- or the patents issued.

09:37:58 3 THE COURT: And did -- does Barco have a patent
09:38:02 4 practicing product?

09:38:04 5 MR. HALVERSON: It does, Your Honor. It has a
09:38:08 6 pretty robust portfolio of products sold all throughout the
09:38:11 7 world. It is at the risk of -- go ahead, Your Honor.

09:38:16 8 THE COURT: That you contend practice the asserted
09:38:20 9 patents?

09:38:20 10 MR. HALVERSON: Correct. And that Barco contends.
09:38:23 11 Barco marks on its patent website which patents practice
09:38:28 12 which of its products and has for a number of years.

09:38:35 13 THE COURT: All right.

09:38:37 14 MR. HALVERSON: And so that was -- that was No. 8.
09:38:39 15 And I don't want to shortchange the other requests, as
09:38:46 16 well.

09:38:46 17 I would note that the sales data that has been
09:38:49 18 produced thus far is only for a subset of the accused
09:38:52 19 products. We have only gotten sales data for the two
09:38:55 20 dongle products, the WPP20 and the WPP30, despite
09:39:00 21 Plaintiff -- or Defendants' acknowledgement today that
09:39:02 22 these other base station products are also part of the
09:39:05 23 case.

09:39:06 24 THE COURT: And is there an interrogatory that
09:39:09 25 specifically addresses the sales data?

09:39:12 1 MR. HALVERSON: That would be No. 1, Your Honor.

09:39:16 2 I would say No. 1 and No. 3.

09:39:19 3 And No. 3 is the one where -- and I don't want to

09:39:22 4 read it because it is marked as highly confidential,

09:39:25 5 outside counsels' eyes only. However, 3 is where they

09:39:29 6 provide a subset of the damages data that would be at issue

09:39:33 7 in this case.

09:39:45 8 THE COURT: And do you have a date range in your

09:39:52 9 sales data request?

09:39:56 10 MR. HALVERSON: In the request? No. As part of

09:40:00 11 the discovery process, we did meet and confer about a date

09:40:03 12 range, and that's how we arrived at the 18 through 24

09:40:08 13 range.

09:40:08 14 The patents, I believe, issued in 2020 or later,

09:40:13 15 and so what we were looking for with the couple of years

09:40:16 16 before the issuance of the patent was to see trendline data

09:40:19 17 on how the sales were progressing.

09:40:26 18 Actually this shows the answer to your prior

09:40:31 19 question about when the WPP30 was released, and so that was

09:40:35 20 decidedly after the earliest patent in this case issued.

09:40:39 21 THE COURT: And are you saying that the Defendant

09:40:40 22 agreed to produce access data beginning in 2018 or that you

09:40:46 23 agreed that -- or you limited your request to that?

09:40:50 24 MR. HALVERSON: I would say that the parties

09:40:54 25 coalesced on an understanding that sales data from 2018

09:40:59 1 onward would be appropriate. I'm not sure that either one
09:41:02 2 of us mandated something, but we both are in agreement that
09:41:07 3 that's an appropriate range of data to provide.

09:41:10 4 Your smile makes me think I'm not answering your
09:41:13 5 question. I'm not trying to be cute.

09:41:17 6 THE COURT: I'm smiling because lawyers use the
09:41:22 7 word "agree" so improperly. I hear that from both sides
09:41:25 8 all the time. The other side has conceded or agreed
09:41:28 9 something, and then the other side gets up and says no.

09:41:31 10 So when I hear agree, it raises a red flag. Show
09:41:38 11 me.

09:41:39 12 MR. HALVERSON: Something that says the agreement?

09:41:41 13 THE COURT: Yeah.

09:41:41 14 MR. HALVERSON: I won't speak for Yealink. Barco
09:41:45 15 is okay only receiving sales data from 2018 onward.

09:41:48 16 THE COURT: All right. I understand what a
09:41:52 17 position is, and it's different from an agreement, but...

09:41:54 18 MR. HALVERSON: Understood, Your Honor.

09:41:55 19 THE COURT: All right.

09:41:58 20 MR. HALVERSON: And then -- sorry, last on the
09:42:00 21 interrogatories themselves, there are a number of
09:42:02 22 interrogatories where the response invokes Rule 33(d).
09:42:08 23 Documents have not been produced or identified in the
09:42:11 24 response sufficient to respond to those interrogatories.
09:42:15 25 Yealink's answer saying we will give you documents or we

09:42:18 1 have given you documents is deficient because nobody can
09:42:24 2 ascertain the response, which is contrary to the rule
09:42:26 3 itself, which says, look, if the answer to this
09:42:29 4 interrogatory can be gleaned equally by both sides from
09:42:33 5 just looking at the documents, I don't have to type it out.

09:42:36 6 However, there are no documents identified or
09:42:38 7 produced from which an answer could be gleaned for those
09:42:43 8 responses.

09:42:46 9 THE COURT: All right. You talked specifically
09:42:49 10 about Interrogatory 8 and Interrogatory 1. I know you also
09:42:55 11 mentioned 4, 7, and 11 through 13. Is -- if you have a
09:43:03 12 specific argument on those others, I would like to hear it
09:43:08 13 before I turn it over to the Defendants.

09:43:10 14 MR. HALVERSON: So Interrogatory No. 4 requests
09:43:13 15 facts and circumstances surrounding any license agreements
09:43:17 16 that Yealink has entered into. And so that concerns any --
09:43:24 17 sorry, go ahead.

09:43:25 18 THE COURT: It's much --

09:43:26 19 MR. HALVERSON: I'm sorry, Your Honor.

09:43:26 20 THE COURT: It's much broader than license
09:43:28 21 agreements. Is license agreements all you're really
09:43:31 22 looking for from No. 4?

09:43:33 23 MR. HALVERSON: License agreements and settlement
09:43:34 24 agreements, to the extent any settlement agreements exist,
09:43:36 25 yes.

09:43:37 1 THE COURT: Okay. All right. I'll consider 4
09:43:43 2 with regard to license and settlement agreements.

09:43:46 3 MR. HALVERSON: 7 requests an identification of
09:43:49 4 individuals who are most knowledgeable about the design and
09:43:52 5 development of the accused products.

09:43:55 6 Yealink's response to Interrogatory 7 on the meet
09:44:00 7 and confers has been we'll let you identify the right
09:44:02 8 people based on the documents that we are providing.

09:44:05 9 We don't have any documents from which we could
09:44:08 10 identify those people, and whether or not the documents
09:44:11 11 themselves identify an individual does not let Barco know
09:44:16 12 whether or not those individuals are the most
09:44:18 13 knowledgeable. Oftentimes the author of a document may not
09:44:20 14 be the person who really owns the information of that
09:44:23 15 document.

09:44:30 16 THE COURT: Did Yealink serve on you disclosures
09:44:32 17 that identified persons with knowledge?

09:44:35 18 MR. HALVERSON: They -- or they did serve 26(a)(1)
09:44:41 19 disclosures, yes.

09:44:43 20 THE COURT: And do those identify persons with
09:44:45 21 knowledge?

09:44:45 22 MR. HALVERSON: So those do identify persons with
09:44:51 23 knowledge. Our request seeks an identification of three
09:44:55 24 individuals so that we can test whether or not there might
09:44:58 25 be somebody else who has other knowledge, additional

09:45:00 1 knowledge, or different knowledge. Whereas, Yealink's
09:45:04 2 26(a)(1)s only identify -- I believe it's one individual on
09:45:07 3 the technical side of things and one individual on the
09:45:10 4 financial side of things.

09:45:11 5 THE COURT: I don't see any reference to three
09:45:15 6 people in your Interrogatory No. 7.

09:45:29 7 Is that something that developed during the meet
09:45:32 8 and confer process?

09:45:32 9 MR. HALVERSON: No, Your Honor. That is a -- I
09:45:44 10 apologize.

09:45:46 11 So I was thinking of -- I was conflating Rog No. 5
09:45:50 12 and Rog No. 7.

09:45:52 13 THE COURT: All right.

09:45:52 14 MR. HALVERSON: Where Rog No. 5, we -- or we
09:45:55 15 specifically asked for a finite number of individuals, Rog
09:45:59 16 No. 7 is admittedly a little broad. However, three
09:46:05 17 individuals, I think, would be sufficient to cover that.

09:46:13 18 THE COURT: So that would be three people with --
09:46:17 19 who were responsible for design, development, et cetera?

09:46:21 20 MR. HALVERSON: Correct, Your Honor.

09:46:40 21 THE COURT: All right.

09:46:40 22 MR. HALVERSON: And then for 11, 12, and 13, we're
09:46:45 23 simply asking for any sort of response. Thus far the
09:46:49 24 response that you see in the document in front of you is
09:46:51 25 simply that Yealink's investigation is ongoing. This case

09:46:55 1 has been ongoing for a year. We need some information
09:46:59 2 about what it is that supports Yealink's defenses, any
09:47:10 3 alleged non-infringing alternatives, as well as the factual
09:47:18 4 bases for any 112 theories of invalidity.

09:47:22 5 THE COURT: You know, the main function of
09:47:25 6 interrogatories like this in my experience is that to the
09:47:27 7 extent that a party ultimately relies upon facts for their
09:47:38 8 defenses, as typically established by their experts, if
09:47:44 9 they haven't disclosed those facts, then you have an
09:47:49 10 argument under Rule 37 that they shouldn't be allowed to
09:47:53 11 rely upon them.

09:47:58 12 So the -- I think of these as largely defensive
09:48:03 13 interrogatories. I don't expect there to be anything more
09:48:09 14 in the answers than the Defendants think they will need to
09:48:13 15 rely upon. But in any event, I'll --

09:48:18 16 MR. HALVERSON: And that's entirely fine. If the
09:48:20 17 answer is either nothing or a brief blurb from a
09:48:24 18 conversation that Yealink intends to have a fact witness
09:48:29 19 present at trial or present to its expert, that's all that
09:48:32 20 needs to be in the response. But we're entitled to know
09:48:34 21 what those facts are before we see the expert report for
09:48:37 22 the first time after the close of fact discovery --

09:48:40 23 THE COURT: I agree. If the --

09:48:41 24 MR. HALVERSON: -- so we can probe into that.

09:48:43 25 THE COURT: -- if the Defendant relies upon facts

09:48:46 1 that were in the Defendants' possession and were not
09:48:48 2 disclosed in response to discovery, then you've got a
09:48:53 3 legitimate complaint.

09:48:54 4 MR. HALVERSON: And that's all we're trying to do
09:48:56 5 with those three.

09:48:56 6 THE COURT: All right. Then at this point, let me
09:49:02 7 hear from the Defendants as to these interrogatories, and
09:49:05 8 then we can move on to the next subject.

09:49:14 9 MR. YANG: Thank you, Your Honor.

09:49:14 10 Just real quick on the contention interrogatories.
09:49:22 11 I think Your Honor is absolutely right, if we have facts
09:49:25 12 that we rely on. And at this point, the substantial
09:49:28 13 deadline for document production is not until January and
09:49:32 14 fact discovery closes after that. If there are facts, we
09:49:36 15 do intend to supplement our responses.

09:49:39 16 What Barco is saying is, no, you have to do it
09:49:42 17 now. Your Honor, I don't think that is workable. So those
09:49:45 18 are the contention interrogatories.

09:49:47 19 THE COURT: Well, I'll tell you that I agree with
09:49:49 20 most of what you've said. But I do want to make it clear
09:49:53 21 that if you disclose facts late in the process at a time
09:50:02 22 when I think it was no longer reasonably available to the
09:50:09 23 Plaintiff to conduct discovery about those facts, you're
09:50:13 24 running the risk that they will be determined to have not
09:50:18 25 been timely disclosed.

09:50:20 1 But as long as you can tie your disclosure of
09:50:27 2 those facts to when you learned them or had reason to
09:50:32 3 disclose them, then, you know, you're right. It doesn't
09:50:37 4 have to be right now.

09:50:39 5 MR. YANG: Your Honor, I absolutely agree. You
09:50:42 6 know, we're not trying to wait until the last minute. And
09:50:45 7 some of these interrogatories are about 112 defenses, and
09:50:50 8 they have our -- they have our contentions of those.

09:50:53 9 But, yes, Your Honor, we do intend to supplement
09:50:55 10 when we have facts, and we will be reasonable about that so
09:50:59 11 they have an opportunity to explore those facts before the
09:51:03 12 expert reports.

09:51:03 13 Coming back to the other interrogatories, Your
09:51:06 14 Honor, one thing I do want to mention about this issue of
09:51:10 15 willfulness, the patents in this case issued in 2020. I
09:51:17 16 think the earliest patent, Your Honor, issued in
09:51:22 17 September -- on September 1st, 2020, and some of the
09:51:26 18 patents issued in 2022.

09:51:28 19 Now, Yealink's products, the WPP20, have been on
09:51:33 20 the market since 2018, and it has been under development
09:51:39 21 much before that.

09:51:41 22 WPP30 is just the new version of the same WPP20
09:51:48 23 product. It's been on the market since 2022, and it's been
09:51:52 24 in development, again, well before that.

09:51:56 25 The question of willfulness is not whether you are

09:51:59 1 aware of Barco, it's whether you are aware that Barco has
09:52:02 2 other patents, it's whether you have knowledge of the
09:52:08 3 asserted patents and what you have done after you gain that
09:52:11 4 knowledge.

09:52:12 5 So, Your Honor, this question of relevance of
09:52:14 6 years of development, years of technical documents, they're
09:52:19 7 not relevant to the issue of willfulness here. And both on
09:52:24 8 the question that Your Honor brought up, do Barco have
09:52:28 9 products that practice the asserted patents, well, Your
09:52:33 10 Honor, their patents have not been marked until 2022. And
09:52:36 11 I think --

09:52:37 12 THE COURT: You mean their products have not been
09:52:40 13 marked?

09:52:40 14 MR. YANG: They have -- they have not been marked.
09:52:41 15 Right. They have this constructive marking through the
09:52:44 16 website. But we have their interrogatory response that
09:52:48 17 say, I think one of the patents was marked -- only one
09:52:53 18 patent was marked in September of 2021. The others were
09:52:57 19 marked in 2023. And that is -- and that is their response
09:52:59 20 to Interrogatory No. 4 from Defendants.

09:53:03 21 So, again, this issue of willfulness, it has to be
09:53:07 22 tied to the asserted patents. And what Plaintiffs -- what
09:53:12 23 Barco is suggesting is they want to get to our documents --
09:53:17 24 all -- all of our research and development.

09:53:20 25 On the meet and confers, Your Honor, I offered, if

09:53:22 1 you want to take a deposition of one of our witnesses, we
09:53:25 2 can arrange that. If you want limited reasonable documents
09:53:29 3 that is proportional to the needs of the case to this
09:53:33 4 question of willfulness, we can arrange that. But they say
09:53:35 5 they want all R&D documents. They want all technical
09:53:39 6 documents.

09:53:39 7 THE COURT: Yealink's position would be much
09:53:43 8 stronger if Yealink had produced what Yealink contended was
09:53:48 9 a sufficient number of technical documents for the
09:53:55 10 Plaintiff to understand the operation and the development
09:54:01 11 of -- of the accused products, but it's not a persuasive
09:54:10 12 position to me to say we're not producing any documents
09:54:13 13 because you're asking for too much.

09:54:14 14 MR. YANG: Your Honor, we -- we do want to find a
09:54:18 15 reasonable approach to this. And our position is not that
09:54:21 16 we will not produce documents, and this is something we
09:54:26 17 discussed earlier. We had -- it's been our position that
09:54:29 18 infringement is out of play. But if we have to produce
09:54:31 19 documents -- and, again, the deadline is January, and we
09:54:34 20 will produce documents --

09:54:34 21 THE COURT: You know --

09:54:36 22 MR. YANG: -- as long as it's reasonable.

09:54:38 23 THE COURT: -- let me on the record just disabuse
09:54:41 24 you of the notion that you don't have to produce documents
09:54:43 25 until the deadline for substantial completion. That is a

09:54:48 1 backstop. You have an obligation to produce documents, as
09:54:55 2 requested, on a timely basis. And what I'm hearing and
09:55:01 3 seeing in the record is that so far, you haven't produced
09:55:04 4 any of your technical documents.

09:55:06 5 MR. YANG: We have produced some, but we will
09:55:08 6 produce more, Your Honor. And that's not my position that
09:55:10 7 we will wait until the last day. All I'm saying is they
09:55:14 8 want us to produce all the documents now.

09:55:16 9 THE COURT: Yeah.

09:55:17 10 MR. YANG: We need to -- we will produce. Again,
09:55:20 11 they want all documents, Your Honor.

09:55:22 12 THE COURT: You know, you didn't even file the
09:55:26 13 second amended answer until September 20, which was long
09:55:34 14 after they requested production.

09:55:36 15 How could you have felt that technical documents
09:55:41 16 were irrelevant long before you filed this admission of
09:55:47 17 infringement?

09:55:47 18 MR. YANG: Your Honor, we have been in a meet and
09:55:52 19 confer process before that. Barco understands that Yealink
09:55:56 20 was working to collect all documents. It's a huge company.
09:56:00 21 And these are, again, international discovery that does
09:56:04 22 take some time.

09:56:06 23 But, Your Honor --

09:56:07 24 THE COURT: Where are the documents that you were
09:56:09 25 saying during the meet and confer process months ago were

09:56:14 1 being reviewed for production?

09:56:17 2 MR. YANG: All the documents are located in China
09:56:19 3 in Yealink's headquarters. They're foreign language
09:56:23 4 documents. And it does take time. So we came in as
09:56:26 5 counsel in May, and it takes some time for us to review,
09:56:29 6 understand everything.

09:56:30 7 But, Your Honor, again, we're not trying to just
09:56:33 8 say we're not producing documents. And it's really during
09:56:37 9 that meet and confer process we told them we need time.
09:56:40 10 And then Yealink decided -- it was a hard decision, but
09:56:44 11 Yealink decided to admit infringement of the claims.

09:56:47 12 Well, Your Honor, if the Court orders, we will
09:56:51 13 produce documents. We're not waiting until the last day.
09:56:53 14 That's certainly not our position. But what I would like
09:56:58 15 some guidance is we just need to understand the scope,
09:57:02 16 because, again, they're asking for all documents. And I'm
09:57:04 17 struggling to understand the relevance of years of R&D
09:57:08 18 documents, of years of technical documents. They say
09:57:12 19 willful. I'm not sure that works because the patents have
09:57:15 20 been issued so late.

09:57:16 21 THE COURT: Well, I don't think the willfulness
09:57:19 22 allegation is what's driving their entitlement to
09:57:25 23 discovery. I think the fact is that the admissions in the
09:57:31 24 second amended answer are not sufficient to take the
09:57:38 25 technical discovery off the table. The limitation of the

09:57:44 1 admission to only claims that are being challenged in the
09:57:51 2 IPR certainly explains to me that why the Plaintiffs are
09:57:59 3 not willing to forego technical discovery. And so I don't
09:58:06 4 think they're just being unreasonable. I think they have a
09:58:10 5 legitimate litigation interest in being able to prove
09:58:14 6 infringement of the other claims that are clearly set out
09:58:19 7 in their infringement contentions and are not subject to
09:58:28 8 IPR.

09:58:28 9 MR. YANG: Okay, Your Honor. So I guess what we
09:58:35 10 would like to have is just some guidance on the -- maybe
09:58:38 11 the temporal scope, because, again, we have a lot of
09:58:41 12 documents. And we have been trying to work -- we really
09:58:44 13 have been trying to work with Plaintiffs to understand,
09:58:47 14 okay, what is it exactly that you need and what is
09:58:52 15 proportional?

09:58:53 16 All we're hearing right now is all documents, all
09:58:56 17 documents. We want all R&D. We want all technical
09:59:01 18 documents. We want all source code.

09:59:03 19 So this, Your Honor -- it would be great if we
09:59:07 20 could get some guidance and some clarity so we can get the
09:59:10 21 Plaintiffs the documents that they need.

09:59:11 22 THE COURT: You know, typically the way this works
09:59:14 23 when it's being engaged in in good faith is that the
09:59:22 24 Defendant will produce what it contends are documents
09:59:28 25 sufficient to understand the operation of the accused

09:59:32 1 products. That's what is set out in the discovery order
09:59:38 2 and based on the local rules.

09:59:40 3 And if the Plaintiff looks at those documents and
09:59:45 4 says, well, we're missing this, that, and the other, then
09:59:51 5 we engage in the process that way.

09:59:51 6 MR. YANG: Okay.

09:59:54 7 THE COURT: But so far, you have not produced
09:59:59 8 anything from your client that is even arguably sufficient
10:00:05 9 to understand the operation of the accused products.

10:00:08 10 That's what I'm hearing.

10:00:09 11 If you think you have, tell me about it.

10:00:11 12 MR. YANG: We have produced some. But admittedly,
10:00:14 13 Your Honor, there are certain more documents we can
10:00:16 14 produce.

10:00:16 15 One thing, too, these are -- these products are
10:00:20 16 all or they have been publicly available, and I think
10:00:25 17 Plaintiffs have their hands on these products, and I think
10:00:27 18 they have --

10:00:28 19 THE COURT: You know, my answer to that is then
10:00:30 20 produce those. It should be no burden to -- if you say
10:00:35 21 these are publicly available and they're sufficient to
10:00:38 22 understand, then just produce them.

10:00:40 23 MR. YANG: I think they already have them, Your
10:00:42 24 Honor. But, you know, we can look into -- if they're
10:00:45 25 requesting products that I think they already have, but we

10:00:49 1 can do that, Your Honor.

10:00:52 2 THE COURT: Well, you are saying that you need
10:00:54 3 some guidance on scope.

10:00:55 4 MR. YANG: Right.

10:00:56 5 THE COURT: And you mentioned temporal scope.

10:00:58 6 Tell me what you're proposing.

10:01:00 7 MR. YANG: Well, these patents, Your Honor, have
10:01:03 8 been issued in 2020 and then on. I think this timeline
10:01:08 9 that we looked at -- so if they want our information, our
10:01:13 10 documents under development on the WPP and the WPP --
10:01:17 11 WPP20, WPP30 products, I think that is a reasonable
10:01:24 12 timeline, Your Honor. And I think that's -- we mentioned
10:01:27 13 this 2018. We have talked about 2018, and we have in our
10:01:32 14 are interrogatory responses providing information from
10:01:34 15 2018. That may be a reasonable timeline that we can work
10:01:37 16 with.

10:01:39 17 THE COURT: All right. So your proposal is that
10:01:44 18 the sales data is where the Plaintiff mentioned 2018.

10:01:49 19 Are you saying that 2018 forward would also be a
10:01:54 20 reasonable time frame for the design and development
10:01:58 21 documents?

10:01:59 22 MR. YANG: I want to -- I believe that's probably
10:02:02 23 workable, Your Honor. Your Honor, I just want to
10:02:04 24 double-check that with my client. I don't want to misspeak
10:02:07 25 when development has started.

10:02:09 1 And on the damages timeline, sales information, I
10:02:13 2 don't believe for that 2018 is reasonable given that the
10:02:16 3 patents have not issued until September of 2020. I think
10:02:20 4 for sales information, 2020 to the day we withdrew the WPP
10:02:28 5 products from the U.S. market, that is a more reasonable
10:02:31 6 time frame for sales information.

10:02:40 7 THE COURT: I understand your position on that.

10:02:48 8 And what other temporal issues do you want to
10:02:53 9 discuss?

10:02:53 10 MR. YANG: I think those are the big ones, Your
10:02:57 11 Honor. And if I may just really quickly on the other
10:03:00 12 interrogatories my colleague has mentioned here. On No. 4,
10:03:03 13 if they just want license agreements, if they want
10:03:06 14 settlement agreements, I think that is something that is
10:03:09 15 reasonable and that we can look into. I mean, right now,
10:03:12 16 that's not the way the interrogatory is drafted.

10:03:15 17 On No. 5, we have identified people that they've
10:03:17 18 asked for.

10:03:18 19 If they're limiting No. 7 to three people, I think
10:03:22 20 that's reasonable. Because right now No. 7 is drafted to
10:03:26 21 ask for each person with knowledge. But if we're limiting
10:03:32 22 those to three, then that is something we can do.

10:03:35 23 THE COURT: All right. And so I guess what I am
10:03:47 24 inclined to say about the design and development documents
10:03:55 25 is that the Defendant would be ordered to produce

1 sufficient technical documents to understand the design and
10:04:08 2 development of those products.

10:04:09 3 I'm definitely never going to order all documents
10:04:13 4 that relate to some broad issue like that, but I do think
10:04:20 5 that it's not unreasonable to order something that goes
10:04:27 6 back before the issuance of the patents in a case like
10:04:32 7 this, especially where the Plaintiff contends that it had
10:04:38 8 products on the market that -- before the issuance of these
10:04:43 9 patents that reflected that technology, and, therefore, if
10:04:51 10 there is evidence that the Defendant was relying upon
10:04:58 11 that -- the Plaintiffs' technology, as demonstrated in its
10:05:04 12 products even before the patents issued, that could be
10:05:06 13 relevant to infringement.

10:05:08 14 But I also want to comment on Rule 33(d). Going
10:05:17 15 forward in this case, you should limit your reliance on
10:05:24 16 Rule 33(d) to situations where you think you really can
10:05:30 17 show me that the Plaintiff is as able to look at those
10:05:37 18 documents and locate the relevant information as your
10:05:45 19 employees would be, and that is a much narrower
10:05:50 20 circumstance than these answers to interrogatories reflect.

10:05:57 21 And I understand that they're in the past and --
10:06:03 22 but I would caution you and I will note that you have been
10:06:11 23 cautioned not to rely upon Rule 33(d) as expansively as
10:06:16 24 these responses do.

10:06:19 25 MR. YANG: And I understand, Your Honor. And,

10:06:22 1 obviously, that goes both ways, Your Honor, right, because
10:06:25 2 I think Plaintiffs have the same reliance on Rule 33(d) for
10:06:30 3 a number of interrogatories. But we can certainly use
10:06:33 4 33(d) sparingly and really in the -- under the appropriate
10:06:36 5 circumstances.

10:06:37 6 THE COURT: Well, I guarantee you, I'll apply it
10:06:39 7 the same way both directions --

10:06:43 8 MR. YANG: Thank you, Your Honor.

10:06:43 9 THE COURT: -- if anything comes up with them, as
10:06:46 10 well. It's not intended to be a substitute for a definite
10:06:52 11 answer.

10:06:53 12 MR. YANG: I agree, Your Honor. I understand.

10:06:55 13 And just if I may, Your Honor, I'm not sure if
10:06:58 14 Plaintiffs have alleged anywhere in this case that they
10:07:01 15 have products that practice the technology of the asserted
10:07:06 16 patents before the patent's issuance. I think I heard that
10:07:10 17 for the first time today.

10:07:11 18 And I understand where the Court's coming from, if
10:07:14 19 that is -- really is the case. If I may just -- if
10:07:16 20 Plaintiffs can make that showing, I think that would be a
10:07:19 21 lot more helpful for us to understand, again, the temporal
10:07:25 22 time scope.

10:07:25 23 THE COURT: Well, I don't -- I'm not suggesting
10:07:27 24 that there is an admission that they had a product on the
10:07:33 25 market that practiced the patents before the issuance. But

10:07:36 1 what I am suggesting is that I look at this case
10:07:39 2 differently because they're competitors with products in
10:07:44 3 the marketplace than I would if we simply had a
10:07:51 4 non-practicing entity that had a patent and was seeking to
10:07:56 5 enforce it.

10:07:57 6 MR. YANG: I understand, Your Honor.

10:07:59 7 THE COURT: Okay. Do you have anything else that
10:08:05 8 you want to say on these interrogatories?

10:08:11 9 MR. YANG: Let me just look through my notes, Your
10:08:13 10 Honor. No, I think that addresses the questions we have.

10:08:22 11 Of course, I think -- maybe we can talk about that
10:08:25 12 later, Your Honor, is the timing of the productions. Like
10:08:29 13 I said, I think for Yealink, we do need some time to review
10:08:35 14 everything, but we can certainly do that as quickly as --
10:08:38 15 as quickly as we can.

10:08:40 16 THE COURT: So what would you ask in terms of time
10:08:46 17 in which to supplement your answers to the interrogatories
10:08:50 18 that we've discussed?

10:08:51 19 MR. YANG: Oh, I think for the interrogatories --
10:08:56 20 so that would be -- Your Honor, if I'm understanding, that
10:08:59 21 would be Nos. 1, 8, 4, and 7.

10:09:03 22 THE COURT: That's right.

10:09:04 23 MR. YANG: Okay. Your Honor, we can -- you know,
10:09:16 24 with the holidays and everything coming up, but I think we
10:09:19 25 can probably supplement those interrogatory responses in

10:09:24 1 three-weeks' time. We just need to understand -- we need
10:09:24 2 to go back and look at all the products and look at the
10:09:27 3 development.

10:09:27 4 THE COURT: You said two weeks?

10:09:29 5 MR. YANG: Three weeks, Your Honor.

10:09:30 6 THE COURT: Three weeks?

10:09:30 7 MR. YANG: Three, yes.

10:09:31 8 THE COURT: All right. I'll note that that's your
10:09:34 9 request. Thank you.

10:09:36 10 MR. YANG: Thank you, Your Honor.

10:09:38 11 I think that's everything on the interrogatories,
10:09:40 12 unless the Court has further questions for me.

10:09:43 13 THE COURT: All right. Thank you, Mr. Yang.

10:09:44 14 I'll let Mr. Halverson speak to those issues, as
10:09:49 15 well.

10:09:50 16 MR. YANG: Thank you.

10:09:50 17 MR. HALVERSON: Just very briefly, Your Honor, and
10:09:56 18 then I'm happy to address any questions.

10:09:58 19 But what I heard in that presentation is we have a
10:10:01 20 lot of docs. We have a lot of documents, but it's going to
10:10:05 21 take us a long time to look at them, which really begs the
10:10:09 22 question: How are you able to rely on 33(d)?

10:10:12 23 What's in those documents that led you to admit to
10:10:16 24 infringement after 10 months of litigation, while holding
10:10:22 25 out for those full 10 months that you don't infringe?

10:10:25 1 And so these questions about what is the temporal
10:10:27 2 limitation or how can we limit the document production are
10:10:31 3 particularly concerning to Barco because we're not sure
10:10:35 4 what's trying to be hidden from production here.

10:10:37 5 But the fact that this case has been pending for a
10:10:39 6 year and the production and the responses are as small as
10:10:42 7 they are, and we keep hearing excuses about how Yealink is
10:10:45 8 trying to be reasonable, Yealink has been trying to be
10:10:49 9 reasonable since June, not to mention the fact that the
10:10:52 10 discovery order went in in April.

10:10:54 11 At no point in time are they doing the reasonable
10:10:57 12 thing of producing a reasonable amount of documents for the
10:11:00 13 relevant issues in this case.

10:11:02 14 Now, as far as the timing of three weeks, we have
10:11:04 15 no concern with that. As far as the other limitations I
10:11:07 16 think that were discussed about the productions, they all
10:11:10 17 seem very reasonable. However, we're concerned that there
10:11:14 18 is an effort to hide certain information from production in
10:11:19 19 this case. And I'm not sure how best to mitigate that
10:11:22 20 going forward.

10:11:24 21 THE COURT: Well, we shall see. I will limit the
10:11:30 22 sales data to January 1, 2019 forward. I think that the
10:11:38 23 Plaintiff is entitled to some sales information before the
10:11:44 24 issuance of the patents in order to assess the accuracy of
10:11:51 25 the information that they're getting thereafter. But,

10:11:57 1 otherwise, I'll proceed with the interrogatories in the
10:12:00 2 manner that we've discussed.

10:12:05 3 And what else do you want to discuss on your
10:12:09 4 motion besides the interrogatories?

10:12:11 5 MR. HALVERSON: Interrogatories and document
10:12:16 6 production? Are those -- are those hand-in-hand?

10:12:20 7 THE COURT: And I guess -- I guess that is the
10:12:30 8 case, frankly.

10:12:34 9 MR. HALVERSON: Ostensibly -- so the claims really
10:12:40 10 relate to how certain information is conveyed from the
10:12:43 11 user's machine to this dongle and then up to something --
10:12:46 12 some other device, whether or not the base station is
10:12:48 13 affirmatively claimed.

10:12:49 14 And so as part of that, and we haven't gotten into
10:12:53 15 this discussion yet, but part of the obligation of
10:12:55 16 discovery under the local rules would include source code.
10:12:57 17 And so as part of that, we would -- we would ask it be --
10:13:04 18 Defendant also include that in its production in
10:13:07 19 pursuant -- or in accordance with the protective order in
10:13:09 20 this case.

10:13:11 21 They've not withheld that or said that they won't
10:13:14 22 do that, but given the issues that we've had so far in
10:13:18 23 getting what would be otherwise reasonable discovery, I
10:13:20 24 just wanted to put that on the record.

10:13:21 25 THE COURT: Have you made a request to review

10:13:24 1 source code yet?

10:13:25 2 MR. HALVERSON: There is a request in the

10:13:28 3 infringement contentions. We have not sent an express

10:13:31 4 letter or otherwise communicated in -- in a separate

10:13:36 5 communication that we want source code. However, pursuant

10:13:39 6 to the local rules in this district where you can identify

10:13:42 7 certain elements that you intend to supplement with source

10:13:45 8 code, we've done that in our contentions. Whether or

10:13:48 9 not -- sorry, go ahead.

10:13:50 10 THE COURT: So in your contentions, you have

10:13:53 11 alleged that certain limitations would be satisfied through

10:13:58 12 source code?

10:13:59 13 MR. HALVERSON: That's correct, Your Honor.

10:14:01 14 THE COURT: All right.

10:14:02 15 MR. HALVERSON: And I don't -- I don't remember

10:14:03 16 the rule off the top of my head, but there is something in

10:14:08 17 there.

10:14:08 18 THE COURT: Well, I would expect that y'all will

10:14:11 19 be able to work out an understanding about source code

10:14:15 20 inspection, but I don't think it's fair to put the

10:14:21 21 Defendants to addressing that now if it hasn't been

10:14:25 22 otherwise raised.

10:14:27 23 MR. HALVERSON: Understood, Your Honor.

10:14:28 24 THE COURT: Is there anything else in your motion

10:14:30 25 that wouldn't be addressed by what we've done?

10:14:34 1 MR. HALVERSON: No.

10:14:40 2 THE COURT: All right. Thank you, Mr. Halverson.

10:14:44 3 Mr. Yang, we have been focused on interrogatory

10:14:48 4 answers. I think it is reasonable to understand that

10:14:53 5 the production of documents will be governed by the same

10:15:00 6 scope.

10:15:01 7 Is -- do you have other issues to raise about

10:15:06 8 document production?

10:15:06 9 MR. YANG: I think the same -- I think that makes

10:15:10 10 sense, Your Honor, as far as the scope goes.

10:15:12 11 We will try to get the documents ready because,

10:15:16 12 again, they are located in China. We do need to review

10:15:22 13 them. They're in a foreign language. But we will do that.

10:15:25 14 We can do that on a rolling basis. We can do that as

10:15:28 15 quickly as we can, Your Honor.

10:15:29 16 THE COURT: All right.

10:15:29 17 MR. YANG: On the source code, if they make the

10:15:31 18 request, that is something we can look into.

10:15:34 19 Oh, and as far as documents go, you know, we want

10:15:36 20 to produce documents that are sufficient for them to

10:15:40 21 understand the accused products. I think a lot of that,

10:15:43 22 Your Honor, may be addressed by producing samples. So we

10:15:46 23 can look into that, as well, so they have the products they

10:15:50 24 can look into, they can use, they can disassemble to make

10:15:54 25 their claim. So that may be something we can do, as well,

10:16:01 1 Your Honor.

10:16:01 2 THE COURT: If the Plaintiffs are agreeable to
10:16:03 3 that, I certainly have no problem with you substituting
10:16:07 4 samples for a certain amount of document production.

10:16:10 5 But at this point, the order is to produce the
10:16:15 6 documents.

10:16:15 7 MR. YANG: Okay. I understand, Your Honor. And
10:16:17 8 we will do that as quickly as practical.

10:16:20 9 The one thing I want to mention, so if there is
10:16:25 10 no -- at this point it seems that there's no effect on
10:16:29 11 the admission of infringement on the independent claims, I
10:16:31 12 just want to get an understanding of going forward,
10:16:35 13 especially when we go to trial in September -- I mean, are
10:16:40 14 the Plaintiffs going to get up, rely on that, and get the
10:16:45 15 damages for those we're expecting to still prove
10:16:49 16 infringement of every dependent claim?

10:16:51 17 THE COURT: You know, if the Plaintiffs decide to
10:16:54 18 assert additional claims beyond those that you have
10:16:59 19 admitted infringement of, then they'll be required to prove
10:17:03 20 infringement of those additional claims.

10:17:04 21 MR. YANG: Okay. Okay.

10:17:07 22 THE COURT: If -- if they are satisfied with
10:17:14 23 relying only on infringement of the claims that you've
10:17:18 24 admitted infringement of, then I would not expect that the
10:17:26 25 proof of infringement beyond that admission would be

10:17:30 1 relevant. But at this point, we're a long way from that

10:17:35 2 and --

10:17:35 3 MR. YANG: I understand, Your Honor. And
10:17:37 4 admittedly, this is not something I have experienced
10:17:40 5 before. This is a unique case, given that admission. But
10:17:43 6 I appreciate the clarification.

10:17:45 7 THE COURT: All right. All right. Well, I will
10:17:50 8 issue an order that memorializes what we've done here and
10:17:57 9 hope that the parties are able to resolve further issues.
10:18:02 10 If you're not able to, if there is something that you think
10:18:06 11 is amenable just to a phone call, I'm willing to take up
10:18:12 12 issues around the fringes on that basis.

10:18:18 13 But if somebody thinks that we need to do it based
10:18:20 14 on a motion and on a record, I'm happy to do it that way,
10:18:24 15 as well.

10:18:25 16 MR. YANG: Your Honor, just one last thing. I
10:18:27 17 apologize.

10:18:29 18 We would expect Plaintiffs to also produce
10:18:32 19 documents along similar schedules, because in this case,
10:18:35 20 they also have not produced a lot of documents about their
10:18:38 21 products, about their financials.

10:18:40 22 THE COURT: Well, I'm -- I certainly will handle
10:18:46 23 issues raised by your side in the same fashion, but I'm not
10:18:53 24 going to simply order them off the cuff to do something.

10:18:56 25 MR. YANG: That's not what I'm asking. I'm saying

10:18:59 1 I think we have an expectation going forward. But thank
10:19:02 2 you, Your Honor.

10:19:02 3 THE COURT: All right. Mr. Halverson?

10:19:04 4 MR. HALVERSON: Briefly, Your Honor. So
10:19:09 5 throughout most of today, as far as discussions about when
10:19:12 6 document production would happen once we got to that point
10:19:18 7 in today's argument, Yealink had said three weeks. Just
10:19:21 8 recently they said we would do it on a rolling basis. And
10:19:25 9 so this rolling basis has been the issue all along in this
10:19:28 10 case. We need the documents.

10:19:32 11 Substantial completion of discovery is in January,
10:19:37 12 three months from now, which is in early December --
10:19:39 13 mid-December. And so whether or not there is a rolling
10:19:43 14 basis is going to be a bit of a problem as we get into
10:19:46 15 report drafting and the close of fact discovery, which is
10:19:49 16 coming very quickly.

10:19:51 17 THE COURT: You know, a rolling basis tells me
10:19:53 18 that if they have them available in one week, they'll
10:19:56 19 produce what they have in one week. If they have some
10:20:00 20 others in two weeks, they'll produce those. But the
10:20:04 21 order will be that they make the production within three
10:20:07 22 weeks.

10:20:08 23 MR. HALVERSON: Perfect.

10:20:09 24 THE COURT: And if they can do that on a rolling
10:20:12 25 basis, that's fine with me.

10:20:14 1 MR. HALVERSON: Sounds good. Thank you, Your
10:20:15 2 Honor.

10:20:15 3 THE COURT: All right. All right. Thank you. We
10:20:19 4 are adjourned.

10:20:21 5 COURT SECURITY OFFICER: All rise.

10:20:23 6 (Hearing concluded at 10:20 a.m.)

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1 CERTIFICATION
2

3 I HEREBY CERTIFY that the foregoing is a true and
4 correct transcript from the stenographic notes of the
5 proceedings in the above-entitled matter to the best of my
6 ability.

7
8
9 /S/ Shelly Holmes _____
10 SHELLY HOLMES, CSR, TCRR
CERTIFIED SHORTHAND REPORTER
State of Texas No.: 7804
11 Expiration Date: 10/31/2025

12/2/2024
Date

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